


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: October 4, 2016

SUBJECT: Fiscal Impact Statement – Comprehensive Youth Justice Amendment Act of 2016

REFERENCE: Bill 21-683, Committee Print as shared with the Office of Revenue Analysis on September 19, 2016

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$848,000 in fiscal year 2017 and \$6.7 million over the course of the four-year financial plan.

Background

This bill, through six titles, proposes significant changes to how the District of Columbia serves court-involved juveniles and families. Below is a title-by-title summary of the key changes the bill proposes.

Title I - Strengthening Youth Services and Rehabilitation Amendment Act of 2016

- Allows¹ law enforcement officers to forgo the arrest of a child that commits an intrafamily offense when that child is diverted to a program providing behavioral health or community support services.
- Prohibits² children that are alleged to be “status offenders”³ from being detained⁴ prior to a fact-finding hearing or dispositional hearing.

¹ By amending D.C. Official Code §16-1031.

² By amending D.C. Official Code §16-2310.

- Requires⁵ a shelter care hearing take place no later than the next day after a child has been taken into custody.
- Requires⁶ the Department of Youth Services (DYRS) to place status offenders in a community-based setting for non-delinquent children when the offender is taken into custody. Currently, DYRS detains alleged status offenders and youth charged with delinquent offenses at the same facility – the Youth Services Center (YSC).
- Requires the Department of Corrections (DOC) to transfer custody of all of the Title 16 youth⁷ to DYRS by October 1, 2018.
- Eliminates⁸ the detention of children aged sixteen and older at adult detention facilities. The bill allows Title 16 youth to be housed in the DOC Central Treatment Facility (CTF) until DYRS has enough space to move them into a secure juvenile facility. The bill requires DYRS to post four consecutive quarters of adequate excess capacity before Title 16 youth can be moved into a DYRS facility.⁹
- Prohibits the transfer of legal custody to a public agency when a child¹⁰ is under the age of ten.
- Prohibits the commitment¹¹ of juvenile status offenders to secure juvenile residential facilities.¹² The District operates two secure juvenile residential facilities - New Beginnings Youth Development Center (NBYDC) and the YSC.
- Terminates¹³ the dispositional order vesting legal custody of a youth status offender on his or her eighteenth birthday.
- Authorizes¹⁴ personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Behavioral Health, the Child and Family Services Agency, the Department of Human Services, the District of Columbia Public Schools, and the Office of the Attorney General to access juvenile case records in order to deliver service, monitor recidivism, and evaluate effectiveness of services.
- Authorizes¹⁵ the sealing of juvenile arrest records.

Title II - Improving the Confinement of Juveniles Act of 2016

- Prohibits penal institutions and secure juvenile facilities from using room confinement to discipline, punish, retaliate, or cover for staff shortages.

³ "Status offenders"- also known as "children in need of supervision"- are children that commit an offense that can only be committed by a child such as being habitually truant from school without justification or being disobedient towards his or her guardian.

⁴ Detained juveniles are youth that are taken into custody and held at a Department of Youth Rehabilitation Services facility while awaiting adjudication.

⁵ By amending D.C. Official Code §16-2312.

⁶ By amending D.C. Official Code §16-2313.

⁷ Title 16 youth are between the ages of sixteen and eighteen and are treated as if they are adult offenders.

⁸ By repealing D.C. Official Code §16-2313(e).

⁹ This requirement is located in Title II Section 204 of the bill.

¹⁰ Delinquent children are those who commit an offense under the law and are in need of care or rehabilitation. (D.C. Official Code §16-2301).

¹¹ Committed juveniles are youth that spend a length of time living in a DYRS facility or community-based placement following adjudication by a D.C. Family Court Judge.

¹² "Secure juvenile residential facility" means a locked residential facility providing custody, supervision, and care for one or more juveniles. (D.C. Official Code §22-2603.01).

¹³ By amending D.C. Official Code §16-2322(a).

¹⁴ By amending D.C. Official Code §16-2331(c)(4)(B).

¹⁵ By amending D.C. Official Code §16-2335(a).

- Allows the use of temporary room confinement to respond to behavior that threatens imminent harm to the child or others, and imminent danger to the safe or secure operation of the facility.
- Requires a mental health screening for all children placed into room confinement within one hour of placement.
- Limits the maximum room confinement placement to six hours. After six hours, the child can return to the general population, move to a mental health facility, move to the medical unit in the facility, or receive special individualized programming.
- Requires DYRS and the DOC to publish an annual report that includes detailed information about the use of room confinement. The report must be published every March 1st, starting in 2018.

Title III - Incarceration Reduction Amendment Act of 2016

- Requires¹⁶ the Office of Attorney General (OAG) to develop a pilot program in collaboration with community partners that offers victim-offender mediation as an alternative to the prosecution of children.
- Requires¹⁷ the Criminal Justice Coordinating Council (CJCC) - in cooperation with the DOC and DYRS - to submit a report to the Mayor and the Council every two years on the root causes of youth crime and the prevalence of adverse childhood experiences. CJCC must issue the report for the first time on October 1, 2018
- Eliminates¹⁸ mandatory minimum sentences for children who commit an offense while under the age of eighteen.
- Prohibits the sentencing of children to life imprisonment without the possibility of parole or release.
- Allows the court to reduce a term of imprisonment and a defendant to petition the court for a reduced sentence if a defendant was convicted as an adult while under the age of eighteen and served at least 25 years in prison. The bill outlines the conditions the Court must consider when determining whether a defendant is eligible for a sentence reduction.

Title IV - Rehabilitation Accountability Amendment Act of 2016

- Requires¹⁹ DYRS to develop a manual for families of children residing in secure juvenile facilities. The manual must include information on the operation of the institution or facility, information on government and community resources, and information and resources available for children leaving confinement.

¹⁶ By amending the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81(a)).

¹⁷ By amending Section 1505(a) of the Fiscal Year 2002 Budget Support Act of 2001, October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234(a)).

¹⁸ By amending An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403, et seq.).

¹⁹ By amending The Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 et seq.).

- Requires²⁰ DYRS to evaluate the effectiveness of rehabilitation programs by collecting information from other District agencies on the education, employment, and criminal justice outcomes for currently or previously committed youth who are under twenty-four. The bill grants DYRS with the authority to collect this information from the Office of the State Superintendent of Education; District of Columbia Public Schools; Public charter schools; University of the District of Columbia; Department of Employment Services; and Metropolitan Police Department.

Title V - Constructive Notice

- Allows²¹ publication to be substituted for in-person notification if a defendant cannot be found after diligent efforts.
- Allows²² public notice of child custody proceedings to be published by the court if a plaintiff is unable to pay the cost of publishing an advertisement.

Title VI - Fraud Prevention Fund Repeal

- Eliminates²³ the obsolete Fraud Prevention Fund which is intended to be used to educate the public regarding fraud and crime prevention.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$848,000 in fiscal year 2017 and \$6.7 million over the course of the four-year financial plan.

Prohibition of Status Offender Secure Detainment and Commitment

The bill prohibits the placement of status offenders in NBYDC and YSC. Instead, status offenders will be placed into community-based placements. DYRS does not have sufficient funds in its budget to pay for an additional thirty community-based placements.²⁴ DYRS needs an additional \$128,000 in fiscal year 2017 and \$534,000 over the course of the four-year financial plan to implement these requirements.

²⁰ Id.

²¹ By amending Chapter 3 of Title 13 of the District of Columbia Official Code.

²² Id.

²³ By repealing Section 126(n) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3226.14).

²⁴ DYRS depends on Court Social Services (D.C. Superior Court) to provide charge information for youth held overnight or detained at YSC or sent to shelter homes. The fiscal year 2015 data shows that 21 status offenders were detained at YSC and 6 were detained at community shelters. Data for fiscal year 2015 is incomplete and therefore this could be an undercount. ORA assume 30 new status offenders will be detained in community shelters as a conservative estimate. Status offenders stay average twelve days in community shelters.

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Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Prohibition of Status Offender Secure Detainment and Commitment					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Total Fiscal Impact	\$127,555	\$131,382	\$135,323	\$139,383	\$533,643

Table Notes:

(a). Assumes 30 community shelter placements for status offenders diverted from YSC and NBYDC.

(b). Assumes an average daily cost of \$354 per youth detained and an average stay of 12 days.

(c). Adjusted by 3 percent annually to account for CPI inflation.

Transfer of Title 16 Custody from DOC to DYRS

The bill requires the transfer of custody for all Title 16 youth under the age of eighteen from DOC to DYRS by October 1, 2018. DYRS must move Title 16 youth into secure juvenile facilities when excess space exceeds the size of the juvenile population at CTF for four consecutive quarters. At this moment, DYRS does not anticipate that adequate space will be available to complete this move within the course of the four-year financial plan. Therefore, ORA's estimate assumes that Title 16 youth will continue to be located at CTF in fiscal year 2019 and fiscal year 2020.

DYRS will need additional funds for its personnel service budget to staff the juvenile unit at CTF. In total, DYRS requires eighteen Youth Development Representatives, five Supervisory Youth Development Representatives, and one Program Manager. DYRS needs an additional \$1.71 million in fiscal year 2019 and \$3.47 million over the course of the four-year financial plan to implement the requirements in the bill.

Since the bill transfers Title 16 youth custody to DYRS, the DOC will no longer require funds to support a juvenile detention unit. ORA anticipates that these funds can be used to offset a portion of the financial impact to DYRS. DOC can shift \$587,000 in fiscal year 2019 and \$1.19 million over the four-year financial plan to offset costs to DYRS.

The total financial impact for the Title 16 youth transfer of custody from DOC to DYRS is estimated to cost \$1.61 million in fiscal year 2019 and \$3.27 million over the course of the four-year financial plan.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Transfer of Juvenile Custody from DOC to DYRS					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
DYRS Salary	\$0	\$0	\$1,709,952	\$1,761,251	\$3,471,203
DYRS Fringe	\$0	\$0	\$487,336	\$501,956	\$989,293
DYRS Total	\$0	\$0	\$2,197,288	\$2,263,207	\$4,460,496
<i>DOC Salary Reduction</i>	<i>\$0</i>	<i>\$0</i>	<i>(\$461,623)</i>	<i>(\$475,472)</i>	<i>(\$937,095)</i>
<i>DOC Fringe Reduction</i>	<i>\$0</i>	<i>\$0</i>	<i>(\$125,561)</i>	<i>(\$129,328)</i>	<i>(\$254,888)</i>
<i>DOC Reduction Total</i>	<i>\$0</i>	<i>\$0</i>	<i>(\$587,184)</i>	<i>(\$604,800)</i>	<i>(\$1,191,983)</i>
Total Fiscal Impact	\$0	\$0	\$1,610,104	\$1,658,407	\$3,268,513

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Table Notes:

(a). Assumes 18 Grade-7, 5 Grade-11, and 1 Grade-13 FTEs at a fringe rate of 28.5 percent.

(b). Adjusted by 3 percent annually to account for CPI inflation.

DOC also spends approximately \$808,000 on non-personnel services for Title 16 youth. This includes: \$300,000 on health care services; \$48,000 on food expenses; \$300,000 on vocational training - dollars are from U.S. Bureau of Prisons; \$68,000 on pharmaceuticals and \$100,000 on bedding, clothing, and linens. ORA assumes these fund will also be shifted to DYRS but the shift will not have a net fiscal impact.

Room Confinement Mental Health Screening

The bill requires DOC and DYRS to conduct a mental health screening on children placed into room confinement within one hour of placement. DOC and DYRS use health services staff to conduct mental health screenings. Both DOC and DYRS can absorb the cost of providing mental health screenings within an hour of confinement in over the course of the financial plan.

Room Confinement Monitoring and Reporting

The bill requires DYRS and DOC to publish an annual report that includes detailed information about the use of room confinement. Both DYRS and DOC are able to collect, document, and report on the use of room confinement within existing resources. There is no financial impact to implement this requirement in the bill.

Victim-Offender Mediation Pilot Program

The bill requires the OAG to develop a victim-offender mediation pilot program. The OAG must hire additional three attorneys to establish the program and to provide the services as outlined in the bill. The estimated cost of implementing a victim-offender mediation pilot program is \$409,000 in fiscal year 2017 and \$1.7 million over the course of the four-year the financial plan.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Victim-Offender Mediation Pilot Program					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Salary	\$338,865	\$349,031	\$359,502	\$370,287	\$1,417,685
Fringe	\$69,806	\$71,900	\$74,057	\$76,279	\$292,043
Total Fiscal Impact	\$408,671	\$420,931	\$433,559	\$446,566	\$1,709,728

Table Notes:

(a). Assumes 3 Grade-13, Step-10 FTEs and a fringe rate of 20.6 percent.

(b). Adjusted by 3 percent annually to account for CPI inflation.

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Root Causes of Youth Crime Report

The bill requires that the CJCC to submit a report to the Mayor and the Council every two years that addresses the root causes of youth crime and the prevalence of adverse childhood experiences among justice involved youth. The CJCC will hire a statistician and contract with a research assistant and legal consultant to produce the report every two years. In order to complete the study as required by bill, the CJCC needs an additional \$214,000 in fiscal year 2017 and \$730,000 over the course of the four-year financial plan.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Root Causes of Youth Crime Report					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Salary	\$115,927	\$119,405	\$122,987	\$126,677	\$484,996
Fringe	\$20,635	\$21,254	\$21,892	\$22,548	\$86,329
Contractual Services	\$77,000	\$0	\$81,689	\$0	\$158,689
Total Fiscal Impact	\$213,562	\$140,659	\$226,568	\$149,225	\$730,014

Table Notes:

(a). Assumes 1 Grade-ES 8, and a fringe rate of 17.8 percent.

(b). Contractual services include funds to hire a research assistant at a cost of \$64,000 and legal consultant at a cost of \$16,000 once every two years.

(b). Adjusted by 3 percent annually to account for CPI inflation.

Juvenile Facility Information Manual

The bill requires DYRS to develop a manual for families of children residing in secure juvenile facilities. DYRS requires an additional \$8,000 in fiscal year 2017 and \$33,000 over the course of the four-year financial plan in order to develop, print, and distribute manuals to children and their families.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Juvenile Facility Information Manual					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Total Fiscal Impact	\$8,000	\$8,240	\$8,487	\$8,742	\$33,469

Table Notes:

(a). Adjusted by 3 percent annually to account for CPI inflation.

Rehabilitation Program Evaluation

The bill requires DYRS to evaluate and track the effectiveness of rehab programs for previously committed youth under 24 years old. DYRS will need an additional employee to monitor rehabilitation outcomes for the approximate 550 children that are committed each year. DYRS requires an additional \$90,000 in fiscal year 2017 and \$378,000 over the four year financial plan for salary and fringe to monitor rehabilitation outcomes.

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Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Rehabilitation Program Evaluation					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Salary	\$70,345	\$72,455	\$74,629	\$76,867	\$294,297
Fringe	\$20,048	\$20,650	\$21,269	\$21,907	\$83,875
Total Fiscal Impact	\$90,393	\$93,105	\$95,898	\$98,775	\$378,172

Table Notes:

(a). Assumes 1 Grade-12, Step-1 FTE and a fringe rate of 28.5 percent.

(b). Adjusted by 3 percent annually to account for CPI inflation.

Summary of the Total Fiscal Impact

The table below gives a summary of the total financial impact of the bill.

Projected Fiscal Impact for Bill 21-683 – Comprehensive Youth Justice Amendment Act of 2016 Summary of the Total Fiscal Impact					
Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	Total
Prohibition of Status Offender Secure Detainment and Commitment	\$127,555	\$131,382	\$135,323	\$139,383	\$533,643
Transfer of Juvenile Custody from DOC to DYRS	\$0	\$0	\$1,610,104	\$1,658,407	\$3,268,511
Confinement Mental Health Screening	\$0	\$0	\$0	\$0	\$0
Room Confinement Monitoring and Reporting	\$0	\$0	\$0	\$0	\$0
Victim-Offender Mediation Pilot Program	\$408,671	\$420,931	\$433,559	\$446,566	\$1,709,727
Root Causes of Youth Crime Report	\$213,562	\$140,659	\$226,568	\$149,225	\$730,014
Juvenile Facility Information Manual	\$8,000	\$8,240	\$8,487	\$8,742	\$33,469
Rehabilitation Program Evaluation	\$90,393	\$93,105	\$95,898	\$98,775	\$378,171
Total Fiscal Impact	\$848,181	\$794,317	\$2,509,939	\$2,501,098	\$6,653,535